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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,383	05/05/2001	Andrea R. Brady	LBL1028U	8207

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EXAMINER

MELWANI, DINESH

ART UNIT PAPER NUMBER

3677

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/849,383

Applicant(s)

BRADY ET AL.

Examiner

Dinesh N Melwani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedek *et al.* (U.S. Patent No. 4,562,704) in view of Swaim (U.S. Patent No. 5,279,132). Benedek discloses a beaded fashion accessory, wherein said accessory comprises a strand of material (i.e. a metal chain) preformed into a design (1), and a plurality of beads having holes (30 and see Figures 2 & 4). Benedek does not include an adhesive for adhering said beads and strand of material to the skin of a user, said strand of material being made of string or natural fiber, or the length of said beaded fashion accessory. Swaim discloses a holding device that teaches the use of an adhesive to secure an adornment to a wearer's skin. Furthermore, in regards to claims 3-5, the applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Still furthermore, in regards to claims 7-11, a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). More specifically, Swaim discloses said strand of material being any one of chain, string, or leather (i.e. fabric), see column 1, lines 25-26. Therefore, it would have been obvious to one having ordinary skill in the art at the time the

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invention was made to utilize the teachings of Swaim, in regards to the use of an adhesive, to modify Benedek by providing a means of securing a body adorning device to a wearer's body during energetic activity, thereby, for example, preventing a chain from being continuously agitated during exercises such as jogging.

3. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedek *et al.* (U.S. Patent No. 4,562,704) in view of Swaim (U.S. Patent No. 5,279,132) in further view of Hector (U.S. Patent No. 5,590,546). Benedek, as modified by Swaim, discloses a bead fashion accessory substantially as claimed, but does not include a plurality of strands of beads, wherein said strands are woven with additional strands of beads to form a pattern and a two dimensional array of beads. Hector discloses an accessory that teaches the use of a plurality of strung beads, wherein said beads are effectively woven to form a two dimensional array pattern, see Figures 1-29. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Hector, in regards to the use of a plurality of stranded beads, to provide Benedek, as modified by Swain, with additional aesthetic versatility since said strands maybe arranged in selectively different patterns, see Hector's Abstract.

4. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedek *et al.* (U.S. Patent No. 4,562,704) in view of Swaim (U.S. Patent No. 5,279,132) in further view of Hector (U.S. Patent No. 5,590,546). The methods of decorating the skin and body as recited by the applicant in claims 15 and 16 are deemed inherent based on the structure of the prior art of record. Since the teachings of the references taken as a whole necessitate the

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steps described in said method, it would have been obvious to one having ordinary skill in the art at the time the invention was made to carry out the necessary steps described by said method.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kiapos *et al.* (U.S. Patent No. 5,219,624), Felcher (U.S. Patent No. 5,497,636), Kramer (U.S. Patent No. 6,030,408), Neary (U.S. Patent No. 6,397,857), Crespi *et al.* (U.S. Patent No. 5,232,752), Frenger (U.S. Patent No. 4,220,016), Andrade (U.S. Patent No. 5,233,845), Dempsey (U.S. Patent No. 5,638,701), Herbranson (U.S. Patent No. 5,848,981), Tane (U.S. Patent No. 5,946,728), Salyer (U.S. Patent No. 5,081,853), Hector (U.S. Patent No. 6,378,334), Mangano (U.S. Patent No. 5,722,260), Schroder (U.S. Patent No. 5,018,250), and Cayton (U.S. Patent No. 5,669,242) disclose a beaded fashion accessory substantially as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh N Melwani whose telephone number is 703-305-4546. The examiner can normally be reached on M-F, 8:30-6 except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4115.

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DNM

August 6, 2002

A handwritten signature in black ink, appearing to read "Robert J. Sandy".

ROBERT J. SANDY
PRIMARY EXAMINER